

REMARKS

By the present amendment, Assignee amends independent claim 36, and adds new claims 37 - 40. With this amendment, claims 26 - 40 are pending in this application. A Request for Continued Examination and fee are submitted concurrently with the present amendment. The Commissioner is authorized to debit deposit account no. 11-0855 for any deficiency in fees.

I. Amended Claim 36, and New Claims 38-40

Independent claim 36 has been amended to include the elements “inserting a reflecting medium into the patient’s body adjacent to the wound” and “emitting ultrasonic waves from the operative surface, such that ... at least some of the ultrasonic waves reflect from the reflecting medium to contact an internal surface of the wound.” These elements are neither disclosed or suggested by the cited art. Furthermore, these elements are fully supported by the Applicants’ specification. *See* pp. 21 – 22.

In addition, independent claim 38 has been added. Claim 38 also includes elements similar to claim 36, such as “directing at least some of the ultrasonic waves toward a reflecting medium inserted within the body capable of reflecting ultrasonic waves” and “reflecting at least some of the emitted ultrasonic waves off of the reflecting medium and toward the wound such that at least some of the reflected ultrasonic waves contact the wound to promote healing thereof.” These elements are neither disclosed or suggested by the cited art. Furthermore, these elements are fully supported by the Applicants’ specification. *See* pp. 21 – 22.

Dependent claim 37 is dependent from presently amended independent claim 36, and dependent claims 39 and 40 are dependent from newly added independent claim 38. If independent claims 36 and 38 are allowable over the cited the art, then the respective dependent claims should also be allowable and therefore in condition for allowance.

II. 35 U.S.C. § 102 Rejection of Claims 26-35

The Office Action rejected claims 26-35 under 37 C.F.R. § 102(b) as being clearly anticipated by *Castel* or *Kulow, et al.* or *Lewis Jr.* This rejection is respectfully traversed as follows.

The Examiner has merely reiterated arguments from the prior office action without providing any basis that the cited references *necessarily function* in the manner recited in the Applicants' claims. Furthermore, the cited art must, in its normal and usual operation, necessarily perform the claimed method. (emphasis supplied) See M.P.E.P. 2112.02. The Office Action does not provide any showing that the cited art, in its normal and usual operation, necessarily performs the Applicants' claimed methods. For at least these reasons, the rejection of claims 26-35 is respectfully traversed.

III. 35 U.S.C. § 103 Rejection of Claims 26-37

The Office Action rejected claims 26-35 under 37 C.F.R. § 103(a) as being unpatentable over U.S. Patent No. 4,787,888 to *Fox* in view of *Thompson et al.* or *Pellico*. Claim 36 has been amended in the present response, and claims 36 and 37 have been addressed above. The rejection of claims 26-35 is respectfully traversed.

The Examiner has merely reiterated arguments from the prior office action without providing any basis that the cited references *necessarily function* in the manner recited in the Applicants' claims. Furthermore, the cited art must, in its normal and usual operation, necessarily perform the claimed method. (emphasis supplied) See M.P.E.P. 2112.02. The Office Action does not provide any showing that the cited art, in its normal and usual operation, necessarily performs the Applicants' claimed methods. For at least these reasons, the rejection of claims 26-35 is respectfully traversed.

CONCLUSION

Assignee respectfully submits that claims 26-40 are in condition for immediate allowance, and requests early notification to that effect. If any issues remain to be resolved, the Examiner is respectfully requested to contact the undersigned attorney for the Assignee at 404.815.6048 to arrange for a telephone interview prior to issuance of an Office action.

Respectfully submitted,

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